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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,947	02/26/2007	Mikko Nevalainen	P2853US00	7062
11764 7590 08/22/2011 Ditthavong Mori & Steiner, P.C. 918 Prince Street Alexandria, VA 22314			EXAMINER GEORGEWILL, OPIRIBO	
			ART UNIT	PAPER NUMBER
			2617	
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			08/22/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/599,947	Applicant(s) NEVALAINEN, MIKKO
	Examiner OPIRIBO GEORGEWILL	Art Unit 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-16, 18-20 and 22-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-16, 18-20 and 22-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal brief filed on 2/15/11, PROSECUTION IS HEREBY REOPENED. New grounds of rejection set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Jinsong Hu/

Supervisory Patent Examiner, Art Unit 2617

2. Examiner notes that Applicant's representative was contacted twice to clarify 112 issues presented in this action. Applicant's representative agreed to consult with Applicant but did not respond to Examiner issues.

Response to Arguments

3. Applicant's arguments with respect to claims 1 - 5, 7 - 16, 18 -20, 22 - 26, 29 - 36, 39, 44 have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's arguments filed 2/15/11 regarding claims 27, 28, 37, 38 and 40-42 have been fully considered but they are not persuasive.
5. Applicant argues on page 19 that while Coley discloses that the license validation request may be sent after a predetermined period of time since the client application was first started, the message indicates that the software remains running on the client device and does not provide an indication that the client application is first being started.
6. Examiner respectfully disagrees with Applicant since claim 27 does not require an indication that the client application is **first** being started (emphasis added). The recitation in claim 27 is "indicates that the application has been stated". Furthermore, Coley teaches that validation each time the application is brought up (indicates the application is started) (see paragraph [92]), and predetermined number of input actions has been input to the application (see paragraph [92], a particular feature is used (e.g. printing) - since to print involves a predetermined input actions to the application) and as acknowledges by Applicant, Coley teaches validation message is sent after a predetermined period of time since the client application was first started, the message indicates that the software

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application remains running at the client device. For further clarification also see the auditing of the application taught by Coley (paragraphs [21], [42], [61])

7. Applicant's failure to adequately traverse the Examiner's taking of Office Notice in the last Office Action is taken as an admission of fact(s) notices.
- 8.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1 –5, 7 – 16, 18 - 20, 22 - 26, 29 - 36, 39, 43, 44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
11. Re claims 1, 29, 30, 31, 32, 39, they include the limitation “determining whether the message is sent” and Applicant points to (specification page 8, lines 27 – page 10, line 7, page 15, lines 8 – 9, and page 20, lines 13 – 20). However, the specification teaches that step "starting a restricted execution of said application,

within a predetermined functional limit, after the message has been initiated" already determines whether the message has been sent (see paragraphs [15] - [16] of the published specification; "initiates a transmission of a message i.e. *tries to send or transmit a message* ... Following the initiation of said message a restricted execution of said application is started within predetermined limits, *if the message has been initiated successfully*"). As can be seen from at least this section of Applicant disclosure, initiated successful implies sent. Further evidence to this can be found in Applicant's disclosure (paragraph [88], fig 1). As such, since the starting the restricted execution of said applicant, within predetermined functional limits, after said message has been initiated step already involves a determining that the message is sent, the claimed determining whether the message has been sent and further restricting based on the determination steps based on ***the same*** initiated message is not supported in Applicant's disclosure. As such Examiner considers Applicant not in possession of the claimed invention at the time the filing date.

12. Claims 2-5, 7-16, 18-20, 22-26, 33-36, 43, 44 are rejected for being dependent on a rejected base claim

Claim Rejections - 35 USC § 112

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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14. Claims 1 –5, 7 – 16, 18 - 20, 22 - 26, 29 - 36, 39, 43, 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

15. Re claims, 1, 29, 30, 31, 32, 39, they recite the limitation "determining whether the message has been sent; and further restricting the execution of said application, within a more restrictive functional limit based on said determination". However, the specification call for restricting of the execution of the game application after the message has been sent (see paragraph [88]) and not a further restricting. It is therefore not clear how the further restriction is achieved when a determination is made that the message is sent, as required by the claim.

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 27, 28, 37, 38 and 40-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Coley et al., US Pub No. 20010011253 A1

Re claim **27**, Coley discloses receiving a message (paragraph [47], request message) from a mobile terminal device (paragraph [104], laptop) at a surveillance center (paragraph [46], license server), said message indicates that the application has been started (paragraph [18], The license server also can record information contained in the license inquiry request message, and thereby audit use of client application), and wherein the message is initiated after a predetermined period of time has passed since the application was first started or after a predetermined number of inputs actions has been input in the application (paragraph [92]);

generating at the surveillance center, an authorization to restrict execution of said application within functional limits on the mobile terminal device (paragraph [47], null indication; also see paragraph [79], disable a feature);

determining to send said authorization to said mobile terminal device (paragraph [47]).

The rejection of claim 27 is incorporated herein. Claims 28 depends on claim 27 and only further limitations will be addressed below.

Re claim **28**, Coley disclose the determining to store a result of said evaluation and an identification related to the use of said application in said database (paragraph [47], record audit information from the request message); generating said authorization to a restricted execution of said application in accordance with the result of the evaluation (paragraph [47], response message).

Re claim **37**, it is drawn to the apparatus by the corresponding method claim 27 and is rejected for the same reasons as claim 27. Furthermore processor are known and expected in the server disclosed by Coley and Coley further discloses a memory including computer program code (paragraph [108]).

The rejection of claim 37 is incorporated herein. Claim 38 depends on claim 37 and only further limitations will be addressed below

Re claim **38**, it is drawn to the apparatus by the corresponding method claim 28 and is rejected for the same reasons as claim 28 above.

Re claim **40**, it contains similar limitations to claim 27 that is met by the reference above and is rejected for the same reason as above.

Re claim **41**, it is drawn to the computer readable medium embodying a program to execute the method of claim 27 and is rejected for the same reasons as claim 27 above (paragraph [108], showing software implementation).

Re claim **42**, it is drawn to the computer readable medium embodying a program to execute the method of claim 27 and is rejected for the same reasons as claim 27 above (paragraph [108], showing software implementation).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

19. Claims 1, 2, 4, 5, 7-9, 15, 16, 19-23, 25, 26, 29-33, 36, 39, 43, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coley et al., US Pub No. 20010011253 A1 in view of Ligeti et al., US Pub No. 20040143746 A1.

Re claim 1, Coley discloses the detecting at a mobile terminal device (paragraph [104], laptop), a user input directed to start the execution of an application on said terminal device (paragraph [46], the client module performs an initial check each time the software application is brought up);

Initiating a message to a surveillance center (paragraph [47], request message), wherein said message indicates that the application has started (paragraph [18], the license server also can record information contained in the license inquiry request message, and thereby audit use of the client application);

starting a restricted execution of said application, within predetermined functional limit, after said message has been initiated (paragraph [79] - [80], disabling a feature. It is expected or at least obvious that the disable feature of the License Check in is a similar process to enabling feature of License Check out (see paragraphs [70] - [73]));

further restricting the execution of said application, within more restrictive functional limit (paragraph [48], disables it).

Coley discloses the claimed invention including determining that a message is sent (paragraph [47], response message) but does not explicitly teach that the further restriction of the execution of the application.

However, at the time the invention was made, restricting the execution of an application, within restrictive functional limits, based on a determination of a message being sent was known to ensure license compliance.

Ligeti in analogous art (see abstract) discloses this concept. Ligeti discloses the restricting of the execution of an application, within restrictive function limits, based on the determination of a message being sent (paragraph [157], where Ligeti teaches that a server connection is lost before a request response is received (determination that message is sent), software is launched with reduced functionality or demonstration mode).

It would therefore have been obvious to a person having ordinary skills in the art, at the time the invention was made to incorporate this teaching of Ligeti of reducing functionality of an application when a response for the message is not

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being received (determination that a message is sent) in a system of Coley thereby having the determination of whether a message has been sent; and further restricting the execution of said application, within a more restrictive functional limit based on said determination so as to ensure license compliance (paragraph [9]).

The rejection of claim 1 is incorporated herein. Claims 2, 4, 5, 7, 9, 15, 16, 19, 20, 22, 23, 25, 26, 44 depend on claim 1 and only further limitations will be addressed below.

Re claim **2**, Coley discloses determining to send said message to said surveillance center (paragraph [47]), and starting said restricted execution of said application, within the predetermined functional limits, after the message has been sent (paragraph [79], the Check In License procedure).

Re claim **4**, Coley discloses that the message indicates the start of an execution of an application (paragraph [18]).

Re claim **5**, Coley discloses that the restricted execution is further based on a time limit (paragraph [74], predefined period of time).

Re claim **7**, Coley disclose that the initiation of the message to said surveillance center comprises: setting up a connection to the surveillance center

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(paragraph [46]), determining to send the message to the surveillance center, said message comprising application related data (paragraph [47]); and receiving an authorization to execute said application within limits defined by said surveillance center (paragraphs [47], [48], also see paragraph [78], License Check In).

The rejection of claim 7 is incorporated herein. Claim 8 depends on claim 7 and only further limitations will be addressed below.

Re claim **8**, Coley discloses that the application related data comprises: data from an application identification, mobile electronic terminal identification, user identification, user identification, player identification, communication parameter, pin-code, or a combination thereof (paragraph [47]).

Re claim **9**, Coley discloses that said application determines to send said message to said surveillance center (paragraph [46]).

Re claim **15**, Coley disclose that said message is sent periodically (paragraph [49], timer for periodic checking of license validity).

Re claim **16**, Coley discloses that the application determines the number of messages to be sent and the point in time a message is sent (paragraphs [49], [50]).

Re claim **19**, Coley in view of Meyer discloses the claimed invention including TCP mechanism (paragraph [102]) but is silent on buffering of said messages not sent. However official notice is taken that at the time the invention was made, buffering of messages not sent was known and expected when TCP mechanism is used in communication. It would therefore have been obvious to a person having ordinary skills in the arts, at the time the invention was made to buffer the messages not sent so as to have re-transmission ability.

Re claim **20**, Coley in view of Ligeti discloses that determining conditions that prevent the sending of said message (Ligeti: paragraph [157], connection lost; Coley: paragraph [104]), wherein the execution of said application is further based on whether the condition is present (Coley: paragraph [104]).

Re claim **22**, Coley discloses the receiving a confirmation message that said message has been sent (paragraph [47], response message).

Re claim **23**, Coley in view of Ligeti discloses the interrupting the execution of said application, if said message has not been sent (Ligeti: paragraph [157]).

Re claim **25**, Coley discloses the downloading application software to said mobile terminal device ([107]).

Re claim **26**, Coley discloses comparing a time rule provided in said application; and interrupting the execution of said application, if said actual date does not meet said time rule (paragraph [74]).

Re claim **29**, it has similar limitations to claim 1 that are met by the references above and is rejected for the same reason as above.

Re claim **30**, it is drawn to the computer readable medium embodying a program to execute claim 1 and is rejected for the same reasons as above (see paragraph [108] showing software implementation).

Re claim **31**, it is drawn to the computer readable medium embodying a program to execute claim 1 and is rejected for the same reasons as above (see paragraph [108] showing software implementation).

Re claim **32**, it is drawn to the apparatus by the corresponding method claim 1 and is rejected for the same reasons as above.

Re claim **33**, as applied to claim 32 above, it is drawn to the apparatus by the corresponding method claim 7 and is rejected for the same reasons as above.

Re claim **39**, it is drawn to the system by the corresponding method claim 1 and is rejected for the same reasons as claim 1 above.

Re claim **43**, Coley in view of Ligeti discloses buffering the message based on the determination (Coley: paragraph [102], [104], TCP which is known and expected to have buffering), wherein the execution of said application is further based on whether said buffer is full (Since clearly Coley in view of Ligeti teaches that the determination is made that the message is sent, and TCP is known and expected to not buffer (buffer) when a message is sent, therefore clearly the buffer is full limitation is met also).

Re claim **36**, as applied to claim 32 above, it is drawn to the apparatus by the corresponding method claim 43 and is rejected for the same reasons as above.

Re claim **44**, Coley discloses wherein the message is initiated after a predetermined period of time has passed since the application was first started or after a predetermined number of input actions has been input to the application (paragraph [92], the software license can also be validated in response to the expiration of a timer).

20. Claims 3, 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coley et al., US Pub No. 20010011253 A1 in view of Ligeti et al., US Pub No.

20040143746 A1, as applied in claim 1 above, and further in view of Kolakowski, Victoria, S., WIPO Pub No. 200249732 A1.

The rejection of claim 1 is incorporated herein. Claim 3 depends on claim 1 and only further limitations will be addressed below.

Re claim **3**, Coley discloses the claimed invention but is silent said application being a game. Kolakowski in analogous art discloses a method of surveyed executing (page 3, lines 22 - 28, software encryption key to authorize the wireless remote entertainment system to operate for a predetermined time or amount of usage; page 9, lines 27 - 30, functionality using upstream channel ... may be changed ... purchase key) of an application (page 9, line 27, fully interactive functionality) on a mobile terminal device (fig 1, abstract, mobile). Kolakowski further discloses the application is a game (page 4, line 15, operating a game). It would therefore have been obvious, to a person having ordinary skills in the arts, at the time the invention was made, to simply substitute the application disclosed by Coley with the game application obtaining the predictable result of the application being a game application so as to move data to the user (page 2, lines 23 – 24).

Re claim **34**, as applied to claim 32 above, it is drawn to the apparatus by the corresponding method claim 3 and is rejected for the same reasons as above.

21. Claims 10, 11, 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coley et al., US Pub No. 20010011253 A1 in view of Ligeti et al., US Pub No. 20040143746 A1, as applied in claim 1 above, and further in view of Raiz et al., US Pub No. 20020164025 A1.

The rejection of claim 7 is incorporated herein. Claim 10 depends on claim 7 and only further limitations will be addressed below.

Re claim **10**, Coley discloses the claimed invention including the outputting a user-authorization request to send a message (paragraph [23], a menu can be presented asking whether the user would like to purchase a license) but does not explicitly disclose that the message is sent to the surveillance center. Raiz in analogous art discloses a method of surveyed executing of an application (see abstract, fig 1). Raiz further teaches the outputting of a user-authorization request to send a message to a surveillance center (paragraph [51], request a renewed authorization key (message) ... the user is alerted to call in or complete the registration wizard to restart account; table III, license server (surveillance center), which is clearly the only source for restarting the account). It would therefore have been obvious to a person having ordinary skills in the art, at the time the invention was made, to incorporate the teaching of Raiz into the disclosure of Coley to have the outputting of a user-authorization request to send a message, as disclosed by Coley, to the surveillance center, as disclosed by Raiz so as to deploy software more efficiently (paragraph [5]). Coley in view of

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Raiz further discloses detecting a user-authorization input authorizing said connection set-up (implicit from step above).

The rejection of claim 1 is incorporated herein. Claim 11 depends on claim 1 and only further limitations will be addressed below.

Re claim **11**, Coley in view of Raiz discloses the outputting a user-authorization request to perform a payment transaction (Raiz: paragraph [39], The user may be presented with a change to select ... the user will choose a desired level of subscription. Should the subscription level require payment, the user must supply payment method); detecting a user-authorization input for authorizing said payment transaction (implicit from step above) and performing said payment transaction (Raiz: paragraph [44], payment information is directed to the financial system where the payment is validated and charged).

The rejection of claim 11 is incorporated herein. Claims 12, 13 depend on claim 11 and only further limitations will be addressed below.

Re claim **12**, Coley in view of Raiz discloses wherein said authorization payment transaction is performed by charging payment device (Raiz: paragraph [27], financial and commercial function; paragraph [44]) but is silent on the payment device being onboard. It would have been obvious to one having ordinary skill in the art at the time the invention was made to payment device part of the mobile terminal device since it has been held that forming in one piece an

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article which has formally been formed in two pieces and put together involves only routine skill in the art. Howard v. Detroit Stove Works, 150 U.S. 164 (1893).

Re claim **13**, Coley in view of Raiz discloses wherein said authorized payment transaction is performed by sending said authorization for said payment transaction to said surveillance center (Raiz: paragraph [44], table II, col 2, where Raiz discloses the License server (surveillance center) directs payment to the financial system. Implies receives authorization).

22. Claims 14, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coley et al., US Pub No. 20010011253 A1 in view of Ligeti et al., US Pub No. 20040143746 A1, as applied in claim 1 above, and further in view of Raiz et al., US Pub No. 20020164025 A1 and Applicant Admitted Prior Art (henceforth “AAPA”).

The rejection of claim 11 is incorporated herein. Claim 14 depends on claim 11 and only further limitations will be addressed below.

Re claim **14**, Coley in view of Raiz discloses the claimed invention including the payment is billed to the client (Coley: paragraph [99]) but is silent on said payment transaction is charged to the next telephone bill. AAPA in analogous art discloses applications and distribution and use of application games (paragraph [6]). AAPA further discloses that application payment transaction is charged to the next telephone bill (paragraph [6]). It would therefore have been obvious to a

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person having ordinary skills in the art, at the time the invention was made, to incorporate the teaching of AAPA into the disclosure of Coley in view of Raiz, having the payment transaction being charged to the next telephone bill so as to conveniently pay for the application (paragraph [5]).

The rejection of claim 32 is incorporated herein. Claim 35 depends on claim 32 and only further limitations will be addressed below.

Re claim **35**, Coley in view of Raiz and further in view of AAPA discloses the apparatus comprises a cellular telephone (AAPA: paragraph [6]).

23. Claim 18, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coley et al., US Pub No. 20010011253 A1 in view of Ligeti et al., US Pub No. 20040143746 A1, as applied in claim 1 above, in view of Meyer, Michael., "TCP Performance over GPRS", In Proc Wireless Communication and Networking Conference, 1999, WCNC, 1999 IEEE, vol 3

The rejection of claim 1 is incorporated herein. Claims 18, 24 depend on claim 1 and only further limitations will be addressed below.

Re claim **18**, Coley discloses the claimed invention including using TCP mechanism (paragraph [102]) and confirmation message that a message has been sent (paragraph [47], response message) but is silent on the determination that the message has not been sent if a confirmation message has not been received within a defined period. Meyer in analogous art discloses a TCP system

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used in a mobile terminal device (abstract). Meyer further discloses the determination that a message has not been sent, if a confirmation message that said message has been sent is received within a defined time (page 1249, col 2, section III, paragraph [2], where Meyer discloses a TCP timeout (confirmation message not received during a defined time), and that the timeouts should only occur if segments (messages) are lost). It would therefore have been obvious to a person having ordinary skills in the arts, at the time the invention was made, to incorporate the teaching of Meyer into the disclosure of Coley to determine the message has been sent if a confirmation message that the message has been sent is not received within a defined period so as to use TCP in a GPRS network (abstract).

Re claim **24**, Coley in view of Meyer discloses that the message is sent via a general packet radio service (Meyer: page 1249, col 2, section IV, paragraph [2]).

Contact Information

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to OPIRIBO GEORGEWILL whose telephone number is (571)270-7926. The examiner can normally be reached on Monday through Thursday, 9:00am - 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jinsong Hu can be reached on (571)272-3965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OPIRIBO GEORGEWILL/
Examiner, Art Unit 2617

/Jinsong Hu/

Supervisory Patent Examiner, Art Unit 2617